

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

TINA KAY BRAZIL
4748 W Sierra Vista Drive Apt 262
Glendale, AZ 85301

Case No. 2007-268

Registered Nurse License No. 572455

Respondent

DEFAULT DECISION AND ORDER

The attached Default Decision and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **November 4, 2007**.

IT IS SO ORDERED **October 4, 2007**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART, State Bar No. 83047
Supervising Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643

7 Attorneys for Complainant
8

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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-268

13 **TINA KAY BRAZIL**
4748 W. Sierra Vista Drive, Apt. 262
14 Glendale, Arizona 85301

DEFAULT DECISION
AND ORDER

15 Registered Nurse License No. 572455

[Gov. Code, §11520]

16 Respondent.
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18 **FINDINGS OF FACT**

19 1. On or about April 10, 2007, Complainant Ruth Ann Terry, M.P.H., R.N.,
20 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs, filed Accusation No. 2007-268 against Tina Kay Brazil ("Respondent")
22 before the Board of Registered Nursing.

23 2. On or about September 28, 2000, the Board of Registered Nursing
24 ("Board") issued Registered Nurse License No. 572455 to Respondent. The registered nurse
25 license expired on October 2, 2002, and has not been renewed.

26 3. On or about April 24, 2007, Carol L. Sekara, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
28 2007-268, Statement to Respondent, Notice of Defense, Request for Discovery, and Government

1 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
2 which was and is 4748 W. Sierra Vista Drive, Apt. 262, Glendale, Arizona 85301. A copy of
3 the Accusation, the related documents, and Declaration of Service are attached as **exhibit A**, and
4 are incorporated herein by reference.

5 4. Service of the Accusation was effective as a matter of law under the
6 provisions of Government Code section 11505, subdivision (c).

7 5. On or about May 4, 2007, the aforementioned documents were returned by
8 the U.S. Postal Service marked "No Forwarding Address." A copy of the envelope returned by
9 the post office is attached hereto as **exhibit B**, and is incorporated herein by reference.

10 6. Business and Professions Code section 118 states, in pertinent part:

11 (b) The suspension, expiration, or forfeiture by operation of law of a
12 license issued by a board in the department, or its suspension, forfeiture, or
13 cancellation by order of the board or by order of a court of law, or its surrender
14 without the written consent of the board, shall not, during any period in which it
15 may be renewed, restored, reissued, or reinstated, deprive the board of its
16 authority to institute or continue a disciplinary proceeding against the licensee
17 upon any ground provided by law or to enter an order suspending or revoking the
18 license or otherwise taking disciplinary action against the license on any such
19 ground.

16 7. Government Code section 11506 states, in pertinent part:

17 (c) The respondent shall be entitled to a hearing on the merits if the respondent
18 files a notice of defense, and the notice shall be deemed a specific denial of all parts of
19 the accusation not expressly admitted. Failure to file a notice of defense shall constitute a
20 waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless
21 grant a hearing.

22 8. Respondent failed to file a Notice of Defense within 15 days after service
23 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
24 Accusation No. 2007-268.

25 9. California Government Code section 11520 states, in pertinent part:

26 (a) If the respondent either fails to file a notice of defense or to appear at
27 the hearing, the agency may take action based upon the respondent's express
28 admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent.

29 10. Pursuant to its authority under Government Code section 11520, the Board
30 finds Respondent is in default. The Board will take action without further hearing and, based on

Respondent's express admissions by way of default and the evidence before it, contained in exhibits A and B, finds that the allegations in Accusation No. 2007-268 are true.

11. The total costs for investigation and enforcement are \$865.25 as of July 16, 2007.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Tina Kay Brazil has subjected her Registered Nurse License No. 572455 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Registered Nursing is authorized to revoke Respondent's registered nurse license based upon violations of Business and Professions Code section 2761, subdivision (a)(4) (out-of-state discipline); section 2761, subdivision (f) (criminal convictions); and, section 2762, subdivision (a) (self administer controlled substances), as alleged in Accusation No. 2007-268.

ORDER

IT IS SO ORDERED that Registered Nurse License No. 572455, heretofore issued to Respondent Tina Kay Brazil is revoked.

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1 Pursuant to Government Code section 11520, subdivision (c), Respondent may
2 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
3 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
4 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
5 statute.

6 This Decision shall become effective on November 4, 2007.

7 It is so ORDERED October 4, 2007

8 *LaTranene W Tate*
9

10 FOR THE BOARD OF REGISTERED NURSING
11 DEPARTMENT OF CONSUMER AFFAIRS
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25 Attachments:

26 Exhibit A: Accusation No.2007-268, Related Documents, and Declaration of Service
27 Exhibit B: Copy of Envelope Returned by Post Office

28 DOJ docket number:03579110SA2006101506
Brazil.Def.wpd

Exhibit A

**Accusation No. 2007-268,
Related Documents and Declaration of Service**

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART, State Bar No. 83047
Supervising Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643

7 Attorneys for Complainant
8

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2007-268

13 TINA KAY BRAZIL
4748 W. Sierra Vista Drive, Apt. 262
14 Glendale, AZ 85301

A C C U S A T I O N

15 Registered Nurse License No. 572455

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
22 ("Board"), Department of Consumer Affairs.

23 2. On or about September 28, 2000, the Board of Registered Nursing issued
24 Registered Nurse License Number 572455 to Tina Kay Brazil ("Respondent"). The registered
25 nurse license expired on October 31, 2002, and has not been renewed.
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3. Section 2750 of the Business and Professions Code ("Code") provides, in

4. Section 2764 of the Code provides, in pertinent part, that the expiration of

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

6. Section 2762 of the Code states in pertinent part:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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1 b. On or about October 23, 2003, Respondent self-administered
2 cannabinoids, a controlled substance.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Criminal Convictions)

5 11. Respondent's license is subject to discipline under Code section 2761(f),
6 in that Respondent has been convicted of crimes that are substantially related to the
7 qualifications, functions, and duties of a registered nurse, as follows:

8 a. On or about August 5, 2002, Respondent was convicted by the
9 Glendale City Court, Arizona, of Disorderly Conduct and Fighting.

10 b. On or about March 19, 2003, in Phoenix Municipal Court, Arizona,
11 Case No. 13047313-01, Respondent was convicted on her plea of guilty of carrying a concealed
12 weapon, a felony.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein
15 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

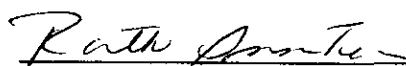
16 1. Revoking or suspending Registered Nurse License Number 572455, issued
17 to Tina Kay Brazil;

18 2. Ordering Tina Kay Brazil to pay the Board of Registered Nursing the
19 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
20 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: 4/10/07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

03579110-SA2006101506
Brazil.Acc.wpd
BC 2-9-2007

EXHIBIT A

Janet Napolitano
Governor



Joey Ridenour
Executive Director

Arizona State Board of Nursing

4747 North 7th Street, Suite 200

Phoenix AZ 85014-3653

Phone (602) 889-5150 Fax (602) 889-5155

E-Mail: arizona@azbn.org

Home Page: <http://www.azbn.org>

AFFIDAVIT OF CUSTODIAN OF RECORDS

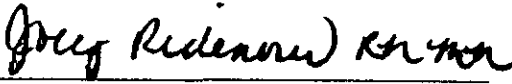
STATE OF ARIZONA

COUNTY OF MARICOPA

I, Joey Ridenour, Executive Director for the Arizona State Board of Nursing, County of Maricopa, State of Arizona, do hereby certify that I am the officer having the legal custody for the records hereto attached in the office of the Arizona State Board of Nursing, County of Maricopa, State of Arizona, a public office of said State. The attached copies are true copies of the records on **TINA KAY BRAZIL**. Personnel of the Arizona State Board of Nursing prepared the records during the ordinary course of business.

Witness my hand and the seal of the Arizona State Board of Nursing at 1651 E. Morten Avenue, Suite 210, Phoenix, Arizona 85020 on May 2, 2006.

SEAL


Joey Ridenour, R.N., M.N.
Executive Director

AZ State Board of Nursing

Date Printed: 05/02/2006

By: VICKY DRIVER, LICENSING

NAME TINA KAY BRAZIL

GENDER: F **ETHNICITY:** White

PLACE OF BIRTH CITY: PHOENIX

STATE: AZ

HOME ADDRESS

8539 W RUE DE LAMOUR

PEORIA AZ 85381

County: Maricopa

MAILING ADDRESS

County:

BUSINESS ADDRESS

County:

HOME PHONE: N/A

PAGER: N/A

CELL PHONE: N/A

BUSINESS PHONE: N/A

FAX: N/A

E-MAIL:

OTHER NAMES

NAMES USED

TINA KAY STONE

REASON

Maiden Name

NAMES USED

TINA KAY STONE

REASON

Maiden Name

AZ LICENSE/CERTIFICATION INFORMATION:

License/Certificate Number: RN115189

License Type: REGISTERED NURSE

Original Date: 07/02/2001

Expiration/Next Renewal Date:

Last Issued Date: 07/16/2004

Original State of Licensure/Certification: CALIFORNIA

AZ LICENSE STATUS HISTORY

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>	<u>LAST MODIFIED BY:</u>
Complaint/Self Report	05/10/2001	06/29/2001	CHARLOTTE SEECHOMA
Pending - Verification	05/16/2001	11/02/2001	
Pending - FBI Prints	05/16/2001	06/26/2001	DONNA FRYE
Pending - Board Review	05/16/2001	05/23/2001	
Temporary	07/02/2001	11/13/2001	
Active: Good Standing	11/13/2001	07/03/2005	
Multi State Privileges	07/01/2002	07/03/2005	
Complaint/Self Report	08/23/2004	05/18/2005	SYDNEY MUNGER
UNDER INVESTIGATION	05/18/2005	03/11/2006	DEBRA BLAKE
Due for Renewal	07/03/2005	08/02/2005	
Multi State Privileges	07/06/2005	11/02/2005	
Late for Renewal	08/02/2005	11/02/2005	
Lapsed/Expired	11/02/2005	03/11/2006	DEBRA BLAKE
Revoked	03/10/2006		DOLORES HURTADO
Multi State Privileges	03/15/2006	03/15/2006	DEBRA BLAKE

SCHOOL INFORMATION

<u>NAME</u>	<u>LOCATION</u>	<u>NCLEX CODE</u>	<u>DEGREE OBTAINED</u>	<u>GRADUATION DATE</u>
COLL OF THE SEQUOIAS	VISALIA CA		Associate Degree	12/01/1999

OTHER STATES OF LICENSURE/CERTIFICATION

<u>LIC/CERT NO</u>	<u>STATE</u>	<u>LIC/CERT TYPE</u>	<u>STATUS</u>	<u>LIC/CERT DATE</u>	<u>ORIG STATE</u>
	CA	REGISTERED NURSE	Active: Good Standing	10/31/2002	Y

MOST RECENT APPLICATION INFORMATION

Year: 2004

Employment Status:

Type of Nursing Position:

Major Clinical or Teaching Area in Nursing:

1 **ARIZONA STATE BOARD OF NURSING**
2 1651 East Morten Avenue, Suite 210
3 Phoenix, Arizona 85020
4 602-889-5150

5 IN THE MATTER OF PROFESSIONAL
6 NURSE LICENSE NO. RN115189
7 ISSUED TO:

8 **TINA KAY BRAZIL,**

9 Respondent.

10 **FINDINGS OF FACT,**
11 **CONCLUSIONS OF LAW**
12 **AND ORDER NO. 05A-0408048-NUR**

13 On January 25, 2006, the Arizona State Board of Nursing ("Board") considered the State's
14 Motion to Deem Allegations Admitted and Respondent's Response to the Motion, if any, at the
15 Arizona State Board of Nursing Conference Room, 1651 E. Morten Avenue, Suite 210, Phoenix,
16 Arizona. Michelle L. Wood, Assistant Attorney General, appeared on behalf of the State. Respondent
17 was not present and was not represented by counsel.

18 On January 25, 2006, the Board granted the State's Motion to Deem Allegations Admitted.
19 Based upon A.R.S. § 32-1664(I) and the Complaint and Notice of Hearing No. 05A-0408048-NUR
20 filed in this matter, the Board adopts the following Findings of Fact and Conclusions of Law, and
21 **REVOKES** Respondent's license.

22 **FINDINGS OF FACT**

23 1. The Arizona State Board of Nursing ("Board") has the authority to regulate and control
24 the practice of nursing in the State of Arizona, pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664.
25 The Board also has the authority to impose disciplinary sanctions against the holders of nursing
26 licenses/nursing assistant certificates for violations of the Nurse Practice Act, A.R.S. §§ 32-1601 to -
27 1667.
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1 2. Tina Kay Brazil ("Respondent") holds Board issued professional nurse license no.
2 RN115189, in the State of Arizona.

3 3. On or about August 24, 2004, a complaint was received by the Board, alleging
4 Respondent had a substance abuse issue. Between September 26, 2003 and November 17, 2004,
5 Respondent had 4 drug screens that were positive for methamphetamines. On or about October 23,
6 2003, Respondent's urine drug screen also tested positive for cannabinoids.

7 4. On or about September 23, 2001, in Glendale Police Department report no. 01-107873,
8 officers responded to a call alleging Respondent had been verbally abusive to her teenage daughter.
9 The daughter reported Respondent had been mentally unstable for several days, had damaged
10 furniture, and had threatened to kill herself with methamphetamines. According to officers,
11 Respondent appeared to be under the influence of drugs, and was arrested for domestic violence. On
12 or about August 5, 2002, following her failure to comply with her probationary requirements,
13 Respondent was convicted in Glendale City Court of Disorderly Conduct and Fighting.

14 5. On or about March 19, 2003, in case no. 13047313-01, Respondent was convicted by
15 her guilty plea in Phoenix Municipal Court, of carrying a concealed weapon.

16 6. On or about November 8, 2004, on the Board's Investigative Questionnaire,
17 Respondent denied drug abuse. Respondent failed to answer the question, "Do you have any previous
18 arrests/convictions?" Respondent certified by her signature that the information she provided to the
19 Board was true, complete and correct.

20 7. On or about March 24, 2005, Respondent scheduled an appointment to be interviewed
21 by Board staff, then failed to show for or cancel that appointment.
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CONCLUSIONS OF LAW

1. The conduct and circumstances alleged in the Factual Allegations alleged constitute violations of A.R.S. § 32-1663(D) as defined in A.R.S. § 32-1601 (16) (b), (d), (g) and (j), and A.A.C. R4-19-403 (12), (13), (24) and (25).

2. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16)(b), (committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission), and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

3. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16)(d), (any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public), and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

4. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16)(g), (willfully or repeatedly violating a provision of this chapter or a rule adopted pursuant to this chapter), and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

5. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16)(j), (violating a rule that is adopted by the board pursuant to this chapter, specifically, A.A.C. R4-19-403 (12), [a pattern of use or being under the influence of alcoholic beverages, medications, or other substances to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location], and is grounds for disciplinary action pursuant to

1 A.R.S. § 32-1663 and § 32-1664.

2 6. The conduct and circumstances described in the Findings of Fact constitute
3 unprofessional conduct pursuant to A.R.S. § 32-1601(16)(j), (violating a rule that is adopted by the
4 board pursuant to this chapter, specifically, A.A.C. R4-19-403 (13), [obtaining, possessing,
5 administering, or using any narcotic, controlled substance, or illegal drugs in violation of any federal
6 or state criminal law, or in violation of the policy of any health care facility, school, institution, or
7 other work location at which the nurse practices], and is grounds for disciplinary action pursuant to
8 A.R.S. § 32-1663 and § 32-1664.
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11 7. The conduct and circumstances described in the Findings of Fact constitute
12 unprofessional conduct pursuant to A.R.S. § 32-1601(16)(j), (violating a rule that is adopted by the
13 board pursuant to this chapter, specifically, A.A.C. R4-19-403 (24a), [failing to cooperate with the
14 Board by: (a). not furnishing in writing a full and complete explanation covering the matter reported
15 pursuant to A.R.S. § 32-1664], and is grounds for disciplinary action pursuant to A.R.S. § 32-1663
16 and § 32-1664.
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18 8. The conduct and circumstances described in the Findings of Fact constitute
19 unprofessional conduct pursuant to A.R.S. § 32-1601(16)(j), (violating a rule that is adopted by the
20 board pursuant to this chapter, specifically, A.A.C. R4-19-403 (25), [practicing in any other manner
21 which gives the Board reasonable cause to believe that the health of a patient or the public may be
22 harmed], and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.
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ORDER

In view of the above Findings of Fact and Conclusions of Law, the Board issues the following Order:

Pursuant to A.R.S. § 32-1664(N), the Board **REVOKES** professional nurse license number RN115189 issued to Tina Kay Brazil.

Pursuant to A.R.S. § 41-1092.09, Respondent may file, in writing, a motion for rehearing or review within 30 days after service of this decision with the Arizona State Board of Nursing. The motion for rehearing or review shall be made to the attention of Susan Barber, R.N., M.S.N., Arizona State Board of Nursing, 1651 E. Morten, Ste. 210, Phoenix AZ 85020. For answers to questions regarding a rehearing, contact Susan Barber at (602) 889-5161. Pursuant to A.R.S. § 41-1092.09(B), if Respondent fails to file a motion for rehearing or review within 30 days after service of this decision, Respondent shall be prohibited from seeking judicial review of this decision.

This decision is effective upon expiration of the time for filing a request for rehearing or review, or upon denial of such request, whichever is later, as mandated in A.A.C. R4-19-609.

Respondent may apply for reinstatement of the said certificate pursuant to A.A.C. R4-19-815 after a period of five years.

DATED this 25th day of January 2006.

ARIZONA STATE BOARD OF NURSING

SEAL



Joey Ridenour, R.N., M.N.
Executive Director

COPIES mailed this 3rd day of February 2006, by Certified Mail No. 7001 1940 0003 4511 3520 and First Class Mail to:

Tina Kay Brazil
8539 W Rue De Lamour
Peoria AZ 85381

COPIES of the foregoing mailed this 3rd day of February 2006, to:

Michelle L. Wood
Assistant Attorney General
1275 W. Washington, LES Section
Phoenix, AZ 85007

By: Vicky Driver